

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**KEITH E. MCCLAIN, and JOYCE A.
MCCLAIN,**

Plaintiffs,

vs.

ETHICON ENDO-SURGERY, INC.,

Defendant.

8:19CV53

**AMENDED
ORDER SETTING TRIAL**

This matter comes before the Court on the Plaintiffs' Motion to Extend Deadlines ([Filing No. 59](#)). After review of the motion, the Court finds good cause to grant the requested extensions. Accordingly,

IT IS ORDERED that the Plaintiffs' Motion to Extend Deadlines ([Filing No. 59](#)) is granted and the trial order is amended as follows:

- 1) The deadlines to identify expert witnesses and to complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are extended to:

For the plaintiffs: **September 15, 2022**

For the defendant: **November 14, 2022**

Plaintiffs' rebuttal: **December 14, 2022**

- 2) The deposition deadline remains **December 30, 2022**.
- 3) A status conference to discuss case progression and the parties' interest in settlement will be held with the undersigned magistrate judge on **December 30, 2022**, at **11:30 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 4) The deadline for filing motions to dismiss and motions for summary judgment remains **January 31, 2023**.
- 5) The deadline for filing motions to exclude testimony on *Daubert* and related grounds remains **January 31, 2023**.

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 6) The Pretrial Conference is rescheduled before the undersigned magistrate judge on **May 30, 2023**, at **10:00 a.m.**, and will be conducted in chambers. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to nelson@ned.uscourts.gov, in Word format, by **3:00 p.m.** on **May 23, 2023**.
- 7) The jury trial of this case remains set to commence before Brian C. Buescher, United States District Judge, in Courtroom 5, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska, at **9:00 a.m.** on **July 11, 2023**, or as soon thereafter as the case may be called, for a duration of five (5) trial days. This case is subject to the prior trial of criminal cases and such other civil cases as may be scheduled for trial before this one. Jury selection will be held at the commencement of trial.
- 8) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.

Dated this 15th day of August, 2022.

BY THE COURT:

s/Michael D. Nelson
United States Magistrate Judge

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